

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

TAHRI SMITH,

Petitioner,

v.

Case No. 15-CV-14260
Hon. Terrence G. Berg

DUNCAN MACLAREN,

Respondent.

_____ /

**OPINION AND ORDER GRANTING PETITIONER'S MOTION
TO DISMISS, DISMISSING WITHOUT PREJUDICE THE
PETITION FOR A WRIT OF HABEAS CORPUS, AND DENYING
A CERTIFICATE OF APPEALABILITY**

This is a habeas case brought pursuant to 28 U.S.C. § 2254. This matter is before the Court on Petitioner's motion to voluntarily dismiss his pending petition for a writ of habeas corpus so that he may return to the state courts and pursue further challenges to his state criminal proceedings. The Court previously denied Petitioner's motion to stay the proceedings and hold this case in abeyance. Given that Petitioner seeks to exhaust additional issues in the state courts and given that he has sufficient time to do so within the one-year statute of limitations

applicable to federal habeas actions (with equitable tolling for the time his habeas case has been pending), dismissal of the present petition is appropriate.

Accordingly, the Court **GRANTS** Petitioner's motion and **DISMISSES WITHOUT PREJUDICE** the petition for a writ of habeas corpus. Additionally, the Court **DENIES** a certificate of appealability as reasonable jurists could not debate the correctness of the Court's procedural ruling. *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b); *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). This case is **CLOSED**. Should Petitioner wish to seek federal habeas relief following the exhaustion of state court remedies, he must file a **NEW** habeas petition in federal court within the time remaining on the one-year period of limitations.

SO ORDERED.

Dated: December 12, 2017

s/Terrence G. Berg

TERRENCE G. BERG

UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that this Order was electronically filed, and the parties and/or counsel of record were served on December 12, 2017.

s/A. Chubb

Case Manager